IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No.39 of 2005
in
Notice of Motion No.2230 of 2004
in
Suit No. 237 of 2003

Ms/ Time N Tune ..Appellants
vs
M/s Ultra Video Pvt Ltd & ors...Respondents

Mr. Ravi Kadam i/b M/s Ranjit and co for appellants
Mr. Rajiv Narulla for respondent nos.l and 2
Mr Sanjay Jain with S.V Phatak with Tushar Bhavsar for respondent no. 3

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.

Dated l8.3.2005

P.C:

Heard advocates.

2. The Appeal is preferred by the original Defendant no. 3 against the order of the learned single Judge granting temporary injunction in a Notice of Motion taken out by Plaintiffs. Plaintiffs have filed the present suit against Defendant nos.l to 3 for a declaration that they are the copyright holders in respect of a film entitled "Bai Chali Sasariya" and for permanent order and injunction, rendition of accounts among other reliefs.

3. In short Plaintiffs' case is that Defendant no

l had produced the film in question and under an agreement dated 26.9.l989 he had assigned exclusive All India Video Rights in respect of the said film in favour of Defendant no. 2. Defendant no. 2 in turn under an agreement dated 2.4.l994 transferred the said rights in favour of one M/s Ultra Video Pvt Ltd and the said firm M/s Ultra Video Pvt Ltd has been subsequently acquired and taken over by the Plaintiffs. Defendant no. 3 is falsely claiming right in respect of the said film on the basis of an assignment purportedly made by Defendant no.2 and any act done contrary to agreement dated 26.9.l989 is illegal and is in breach of said agreement. The original agreement is produced before us and as per the agreement the period is 25 years.

4. On behalf of Appellant two submissions were made. First, it is contended that the period of 25 years in the agreement dated 26.9.l989 is subsequently inserted and the agreement is only for a period of 5 years and therefore the agreement of Pplaintiffs with Defendant no. l is over by efflux of time and there is no illegality on the part of Defendant no. 3 in entering into the agreement after the expiry of the said period. Secondly, according to Appellant he has been exploiting the

rights from October 2002 and in the circumstances looking to the balance of convenience no injunction ought to have been granted to the plaintiffs. The Appellant is ready to give accounts of the transaction in respect of the film to the court. If ultimately Plaintiffs succeed it can claim the amount.

5. As regards the main submission we have carefully examined the agreement and there is nothing to suggest that the period of 25 years was interpolated since it is signed by all the parties. The agreement is for a period of 25 years. The Plaintiffs have right in respect of the film for the remainder of the term and subsequent transaction between the defendant nos.l and 3 is clearly illegal. In the facts and circumstances of the case it is not possible to accept the argument that the Appellant will submit accounts in court or to the Plaintiffs. In our opinion the learned single Judge has rightly granted injunction in terms of prayer clause (a).

Appeal is dismissed.